



TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Complete if Known

Application Number	09/327,347
Filing Date	6/5/1999
First Named Inventor	Jamaloddin S Golestani
Examiner Name	Hieu Le
Group/Art Unit	2153
Attorney Docket ID	Golestani 3

Total number of pages in this Submission: this page, plus

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ENCLOSURES (check all that apply)

MAY 12 2003

☐ Fee Form (☐ Check included)

If Fee Form is not included, but a fee is due, the Commissioner is Authorized to charge Deposit Account No 500732 of Henry T. Brendzel and consider that appropriate requests have been made.

☒ Amendment/Response – copy of☐ After Final☐ Affidavit(s)/Declaration(s)☐ Extension of Time Request☐ Information Disclosure Statement☐ Certified Copy of Priority document(s)☐ Response to Missing Parts/
Incomplete Application☐ Response to Missing Parts
under 37 CFR 1.2 or 1.53☐ Declaration (no Missing Parts Notice)☐ Assignment Papers
(for an Application)☐ Drawing(s)☐ Licensing-related Papers☐ Petition Routing Slip (TO/SB/69)
and Accompanying Petition☐ To Convert a Provisional Application☐ Power of Attorney, Revocation or
Change of Correspondence Address☐ Express Abandonment☐ Terminal Disclaimer☐ To Convert to Statutory Invention
Registration☒ Postcard(s) Technology Center 200☐ Small Entity Statement☐ Request for a Refund☐ After Allowance Communication
to group☐ Appeal Communication to Board of
Appeals and Interferences☐ Appeal Communications to Group
(Appeal Notice, Brief, Reply Brief)☐ Proprietary Information☐ Status Letter☒ Other Petition to withdraw holding
of abandonment or to revive

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual Name

Henry T. Brendzel

Signature

Date

4/30/03

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as service in an envelop addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA22313-1450 on this date:

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Henry Brendzel

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OFFICE OF PETITIONS



IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE

#15

Patent Application

Inventor(s)	Jamaloddin S Golestani	Case Name	Golestani 3
Filing Date	6/5/1999	Serial No.	09/327,347
Examiner	Hieu Le	Group Art Unit	2153
Title	End-to-End Internet Congestion Control		

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Technology Center 2100

SIR:

PETITION TO WITHDRAW A HOLDING OF ABANDONMENT

or, in the alternative,

PETITION TO REVIVE AN APPLICATION FOR PATENT
ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)

or, in the alternative,

PETITION REVIVE AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

A petition to withdraw a holding of abandonment was filed on Feb. 19, 2003. The primary cause for the abandonment was the operational breakdown within the PTO that lost, misplaced, or misfiled applicant's Office Action response. The petition included proof that the PTO received applicant's amendment.

On April 1, 2003 a ruling was mailed, **dismissing** the petition.

It is not clear whether the Petitions Examiner is challenging applicant's claim that the amendment was indeed filed as claimed (there were more than one fax sessions in the original communication to the PTO because of technical problems).

What is clear is that the Petitions Examiner asserts that the "transmittal form omits checking a box for "Extension of Time Request," and that the amendment does not place the case in condition for allowance.

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OFFICE OF PETITIONS

As to the former, applicant respectfully traverses, because the amendment was filed with a form that is devoted explicitly to the "extension of time" request. Respectfully, it is irrelevant whether the transmittal form checked the appropriate box as well.

As to the latter; that is, whether the amendment places the case in condition for allowance, the Petitions Examiner rightly relies on the Examiner of the case. Whether that Examiner is correct is a matter to be addressed with her.

Although the PTO was faxed another copy of the amendment at the time it was discovered that the amendment was not in the case within the PTO, and a copy was provided with the aforementioned petition, a clean copy of the amendment as filed is included herein.

A Notice of Appeal is also included herein to provide a fully responsive filing, even if the enclosed amendment does not place the case in condition for allowance, so that this petition may be granted.

(A) Because the abandonment resulting from an error by the PTO, it is respectfully requested that the holding of abandonment be withdrawn.

(B) Should it be decided that a withdrawal of the holding of abandonment cannot be granted, in the alternative, applicant respectfully requests that the application be revived under 37 CFR 1.137(a), because the abandonment was unavoidable inasmuch as applicant was not aware, and could not be aware, that the submitted amendment – which was received in the PTO – was lost, misplaced, or misfiled.

(C) Should it be decided that a withdrawal of the holding of abandonment cannot be granted and that a revival under 37 CFR 1.137(a) also cannot be granted, in the alternative, applicant respectfully requests that the application be revived under 37 CFR 1.137(b), for the reasons expressed above.

A grantable petition requires the following items:

- | | |
|-------------------|--|
| (1) petition fee: | The Commissioner is hereby authorized to charge Deposit Account No. 500732 of Henry T. Brendzel the appropriate amount to cover the petitions, Notice of Appeal, and any other fees associated with this filing. |
|-------------------|--|

(2) Reply and/or issue fee An amendment and a Notice of Appeal are included.
(3) Terminal Disclaimer: Unnecessary, since case was filed after June 8, 1995.
(4) Adequate showing: Showing is believed to have been met by the above.

Dated: 4/30/03

Respectfully,
Jamaloddin S Golestani

By


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